West Virginia Pharmacy Cost Management Council

Meeting Minutes
September 22, 2004 at 9:00 a.m.
State Capitol Complex, House Finance Committee Room 460-M
Charleston, West Virginia 25305

Members Present:	Absent:	Others Present:
Shana Phares, Chair	**Stephen Neal**	**See Attached Register**
Robin Perdue	**Kevin Outterson**	
Keith Huffman	**Heather Bresch**	
Peggy King		
Nancy Atkins		
Ann Stottlemyer		
Felice Joseph		
Phil Shimer		
Charles L. Burdette		
Dr. Wayne Spiggle		

Attending the meeting as a representative for Heather Bresch of Mylan Laboratories was Leah L. Summers.

Ms. Phares called the meeting to order. Members of the Council were previously emailed copies of the Minutes of the Council Meeting held on September 9, 2004. A motion to approve the minutes, as presented, was made by Ms. Stottlemyer. Seconded by Mr. Burdette. Motion carried unanimously.

Ms. Phares next distributed a "Proposed Fall Schedule for the Rx Council" indicating the next meeting will be held in Charleston on October 13, 2004, at which time the report on the Medicare Modernization Act, which is due to be submitted to the Joint Committee on October 15th, will be finalized. Thereafter, meetings are scheduled for Thursday, November 18th, at which time a draft of the Annual Report of the Council will be reviewed, and Thursday, December 16th, at which time the Annual Report will be finalized and approved. Other agenda items for future meetings were also discussed.

Ms. Phares distributed copies of the Reference Pricing Report submitted to the President of the Senate and the Speaker of the House on September 10, 2004, which recommendation was due to the Joint Committee on Government and Finance on September 15, 2004. Additionally, Ms. Phares distributed copies of a letter received from House Speaker Kiss acknowledging receipt of the report.

Richard Stevens, Executive Director of the West Virginia Pharmacists Association, next addressed the Council, responding to an email he sent to members of his association on September 9, 2004 regarding the Reference Pricing Report and its repercussions on West Virginia pharmacists. Mr. Stevens advised the group that his association is independent of any PBM, the Governor's Office or any manufacturer and does not oppose any initiative to assist anyone not financially able to purchase prescription drugs. He further informed the Council that pharmacies purchase their products from wholesalers; wholesalers mostly rate price on quantity and pharmacies get the best price from wholesalers by paying invoices expediently. If a pharmacist has to wait ninety days to be reimbursed through a state-run program, he loses the discount he would have received by paying invoices within thirty days. Further, if 340b clinics are permitted to solicit insured patients, it will be at the expense of the local pharmacists. Current 340b prices are available at clinics to those patients who are eligible because of low-income. Mr. Stevens stated that those clinics offering 340b prices are soliciting private pay and third-party payors, the local pharmacies can't compete with those prices. Concluding his remarks, Mr. Stevens asked that the Council add an addendum to the Reference Pricing Report clearly stating in no uncertain terms that pharmacies shall not suffer any financial hardships.

Ms. Phares reminded Mr. Stevens that the report included provisions that the pharmacist would receive any discounts the state receives. However, Ms. Phares then asked the members of the Council if it should amend the report or issue a letter of support to work together as partners with the Pharmacists Association. By motion made by Ms. Stottlemyer, seconded by Ms. King and unanimously approved, a letter will be drafted supporting pharmacists but not promising to hold them harmless. Mr. Shimer, in conjunction with Mr. Stevens and Patty Johnston, President of the Association, was asked to draft the letter to be presented at the next meeting of the Council.

Jill McDaniel of the West Virginia Hospital Association was next on the agenda and spoke to the effects on hospitals of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). A critical consideration of the MMA is to ensure that persons in rural areas receive needed health services and to help hospitals reduce the impact of payment shortfalls from government programs. Further provisions include:

- Permanent equalization of rural and small urban hospitals to payment rate for large urban hospitals;
- Reducing from 71% to 62% the share of hospital payments adjusted for local area wages;
- Increases the limitation on Medicare disproportionate share payments to rural and small urban (under 100 beds) hospitals from 5.25% to 12%;
- Paying critical access hospitals at 101% of cost and increases acute care bed limits from 15 to 25 beds;
- Increases payment adjustments for Indirect Medical Education;

- Elimination of much of the previous Medicaid disproportionate share cuts (effective 10/01/03) through a 16% increase in federal Medicaid disproportionate share payments.

And, finally, it was reported, in addition to addressing sole community hospitals, updating labor market areas, specialty hospitals and regulatory reform under the MMA, an estimated $287 million over 10 years is expected in help to West Virginia's hospitals. This equates to about $30 million per year to help lower the impact of significant shortfalls from government payers. Last year West Virginia hospitals lost $200 million taking care of Medicare patients. The bill reduces that loss by only 10-15%.

Nancy Atkins, Commissioner of the Bureau for Medical Services and a member of the Council, spoke on the Clawback Provision of the MMA. As part of the new Medicare law of December 8, 2003, low-income elderly and individuals with disabilities who are enrolled in both Medicaid and Medicare and those who are eligible for Medicaid because of their income are eligible to receive SSI or spenddown. These beneficiaries are referred to as "dual eligibles" or "full duals." This population accounts for approximately 42% of overall Medicaid spending. Due to the fact that these beneficiaries are being included in the prescription drug benefit, the Bureau for Medical Services, Medicaid, has been keenly interested in the development of the implementation details.

Ms. Atkins went on to describe the significant changes in the new Medicare law including:

- Dual eligibles will receive prescription drug coverage through Medicare. Medicaid will no longer provide drug coverage for this population as of 1/1/06. States will no longer have to use state Medicaid matching funds to provide prescription drug coverage for dual eligibles.
- States are required to finance a significant portion of the cost of prescription drug coverage for dual eligibles through the "phased down state contribution" or "clawback" as it is called. States will be charged a monthly payment by the federal government. The payments are designed to return to the federal government the amount that states would have spent on dual eligibles' prescription drug coverage under Medicaid if the new Medicare law had not been enacted. The "take back" factor is set at 90% in 2006 and will be phased down to 75% by 2015. The amount of the clawback will vary monthly based on enrollment and expenditures.
- Provision for increased premiums for dual eligibles who would not be eligible to participate in Medicare Parts A and B so they could have basic healthcare coverage.
- New roles and responsibilities in the administration of the low-income subsidy program will fall to the states.
- States that offered generous coverage in 2003 will be penalized with higher clawback payments than states that offered less coverage due to the fact the inflation factor of the new law.
- There have been difficulties in establishing an accurate count of the state's full dual eligibles.

- Clawback calculations will be net of drug rebates collected. However, rebate disputes and the inherent delays associated with rebate collections could disadvantage states and result in overpayment of the clawback.
- All payors of prescription drugs will inevitably pay higher prices. There are no provisions in the new law for price negotiations. Due to fewer dual eligibles in the Medicaid program, states may realize less negotiating ability for the remaining population and result in higher drug prices for Medicaid.

Felice Joseph, Pharmacy Director for the PEIA and a member of the Council, informed members that she and the PEIA's actuary were still evaluating Medicare benefits for retirees.

Ms. Phares distributed and reviewed a list of proposed topics to be addressed in the Annual Report of the Council and the following writing assignments were made:

1. 340b Program Review: Shana Phares
2. State Discount Card: Ann Stottlemyer and Dr. Wayne Spiggle
3. Detailing-Retail and Academic: Felice Joseph
4. Status of Retail and Independent Pharmacies: Laddie Burdette
5. Other state agencies which purchase pharmaceuticals: Shana Phares
6. Pharmacy Collaborative, including letter to Select Committee C: Laddie Burdette
7. Drug importation, including letter to Attorney General: Prof. Kevin Outterson
8. Office of the Pharmacy Advocate: Phil Shimer and Leah Summers
9. Role of generic drugs: Leah Summers
10. Joint purchasing recommendations: Phil Shimer

Other topics to be covered included: veterans' or other FSS pricing; negotiation of multi-state agreements and discounts on savings. Ms. Phares asked those preparing reports to match up Code cites from statutes to topics. The final report of the Council is due on December 31, 2004.

Phil Shimer, Deputy Director of the Workers' Compensation Commission and a member of Council, made a report prepared by Subcommittee III, who was charged with: reviewing and studying "Negotiation of agreements for all state payors and private insurers for drug purchasing, shared PDL, shared pricing, PBM services, joint purchasing of health care, health care management."

Mr. Shimer stated that one strategy to lower drug prices is for many state agencies, such as Medicaid, PEIA, CHIP, as well as state hospitals, correctional facilities, and health departments, to "consolidate" or aggregate" their purchasing of pharmaceuticals. This allows states to leverage their market power with pharmaceutical manufacturers. Larger programs are more inclined to negotiate better rebates as well as being able to consolidate the administrative costs to run each program. The subcommittee recommends that such an arrangement would offer significant benefits. The subcommittee further recommends and

supports the proposal of a cabinet-level Chief Pharmaceutical Advocate (CPA) with the power to review, cancel, and/or combine or develop new contracts related to the purchase of pharmaceuticals.

In addition to interagency efforts, the subcommittee reviewed multi-state initiatives, including West Virginia's RXIS project covering public employees in five states with benefits for 700,000 lives and could be expanded to partner with private entities. Also studied were the National Medicaid Polling Initiative, covering Medicaid recipients in nine states, and Minnesota Multi-state Contracting Alliance for Pharmacy, operating in 40 states providing for facility-based prescription drug purchases and run by the State of Minnesota. The subcommittee believes each program has different strengths and believes the CPA should encourage participation.

Mr. Shimer went on to list "tools" which could be utilized to address costs, including: preferred drug lists, utilization management, prior authorization, step therapy, quantity level limits and disease management.

In conclusion, Mr. Shimer stated that the subcommittee recommends that the CPA evaluate pharmacy benefit management (PBM) services utilized by PEIA, CHIP, Medicaid and the Workers' Compensation Commission to determine if they are cost effective and have the authority to modify or cancel them if necessary.

Ms. Phares advised that, after polling members of the Council to determine if a quorum would be available, the Public Hearing and meeting scheduled for October 12th and 13th in Shepherdstown would be canceled.

The next meeting of Council will be on Wednesday, October 13, 2004 at 9:00 am in the Governor's Press Conference Room at the Capitol in Charleston. Amy Tolliver with the State Medical Association, and representatives from PhRMA will be extended invitations to address Council at that meeting.

The meeting concluded at 12:15 p.m.